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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/002,415	10/25/2001	John Zukley	3195	2598

22474 7590 06/30/2003

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EXAMINER

ALIE, GHASSEM

ART UNIT PAPER NUMBER

3724

DATE MAILED: 06/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/002,415

Applicant(s)

ZUKLEY, JOHN

Examiner

Ghassem Alie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: an imaging device 61 on page 16, line 2. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to under 37 CFR 1.71 for not disclosing how specification fails to teach how the first holding device holds the brick while mortars are removed from the rear, the ends, and the top and bottom of the brick. Are there two holding devices? If so, what is the function of the second holding device since the first holding device is holding the brick throughout the cutting operation.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 11-16 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which is not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 1, the specification fails to teach how the first holding device holds the brick while mortars are removed from the rear, the ends, and the top and bottom of the brick. Is conveyor 38 the first holding device? Is the carrier 60 the first holding device?

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According to the specification, mortar is removed from the back of the brick by cutter 52 while the conveyer 38 is holding the brick. Mortars are also removed from the ends and the back and the front of the brick by cutters 72 and 76 while the carrier 60 is holding the brick. See page 5, third paragraph and page 6, first paragraph in the specification. Therefore, it is not clear how the first holding device could hold the brick while mortars are removed from all sides of the brick.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-12, 15, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turner (547,746) in view of Barr et al. (3,931,501), hereinafter Barr.

Regarding claims 1 and 2, Turner teaches a method and apparatus of removing mortar from a brick including a first device e^2 for holding a brick. The chain e^2 has feeding-lugs e^3 and positioning-lugs e^4 for holding the bricks and carrying them toward the cutting rollers. Turner also teaches that the mortar is removed from the top and bottom, rear, and ends of the brick by cleaning-rolls B, C, and D. Turner also teaches transport devices e and h for transporting the brick from the first cutting device B to the second C and third D cutting devices. See Figs. 1 and 2 and page 1, lines 32-65 and page 2, lines 6-110 in Turner. Turner does not teach an imaging device for determining the orientation of the brick and a computer wherein the cutting device, the transport device, and the imaging device are automated and controlled by

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the computer. However, computer controlled cutting devices are well known in the art such as taught by Barr. Barr teaches cutting apparatus 20 including an imaging device 70, transport device 51, and marking pens or cutters 129, 130 which are all automated and controlled by the computer 24. The scanner assembly scans the workpiece 26 and the image of the workpiece is transferred to the computer 24 and the computer identifies the defect in the workpiece 26. The marking pens mark the selected cutting pattern by the computer on the workpiece 26. Barr also teaches that the same cutting pattern signals generated by the computer 24 could be sent to cutters for trimming the defects of the workpiece 26. See Figs. 1, 2, 2a, 3, and 4, and col. 4, lines 12-67 and col. 1-35 and coil. 8, lines 21-68 and col. 10, lines 11-37 in Barr. It would have been obvious to a person of ordinary skill in the art to provide Turner's brick recycling apparatus with the imaging device, the computer, and computer controlled system as taught by Barr in order to facilitate the removing process of the mortars from the bricks.

Regarding claims 2-4, Turner as modified by Barr, teaches everything noted above including a step of determining the position of the brick and the interface between the brick and mortar. The imaging device 70 is capable of determining the position of the interface between the brick and mortar since it performs a similar function with the workpiece 26. The imaging device determines the orientation of the workpiece 26 and the interface between the workpiece 26 and the defects of the workpiece 26. See col. 5, lines 1-67 in Bar.

Regarding claim 5, Turner as modified by Barr, teaches everything noted above including that the imaging device 70 is capable of imaging the front face of the brick. See col. 5, lines 1-67 in Bar.

Regarding claims 6-8, Turner teaches everything noted above including that the mortar is removed from the top and bottom, rear, and ends of the brick by first cutting device B, the second cutting device C and the third cutting device D. See Figs. 1 and 2 and page 1, lines 32-65 and page 2, lines 6-110 in Turner.

Regarding claims 9, 10, and 19, Turner teaches everything noted above including that the second cutting device C and the third cutting device D are pairs of saws. See Figs. 1 and 2 in Turner.

Regarding claim 11, Turner teaches everything noted above including that a first means and a second means for positioning the second cutting device C and the third cutting devices D in a position of removing the mortar from the brick. The roll b of the cutters C and D are defined as the positioning means for putting the cutters C and D in position of removing mortar from the brick. See Figs. 1 and 2 in Turner.

Regarding claim 12 and 20, Turner teaches everything noted above including that the first and the second positioning means moves the second cutting means C and the third cutting means D in three dimensional space. The positioning means b of the second cutting means C and the third cutting means D move the respective cutters in three dimensional space since the cutters would be clearly positioned in three dimensional space in view of the showing in Fig. 1 in Turner.

Regarding claim 15, Turner teaches everything noted above including at least one means (conveyor e and h) for transporting the brick between the first cutting device B and the second cutting device C and the third cutting device D. See Fig. 1 and 2 in Turner.

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7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turner in view of Nishitani et al. (5,957,653), hereafter Nishitani. Regarding claim 16, Turner teaches everything noted above including that the first device e^2 for holding a brick is a clamping device. The chain e^2 has feeding-lugs e^3 and positioning-lugs e^4 for clamping the bricks and carrying them towards the cutting rollers. Turner does not teach a step of stacking bricks onto a pallet. However, stacking bricks or the like onto a pallet is well known in the art such as taught by Nishitani. Nishitani teaches a step of stacking brick like articles A onto a pallet B. See Fig. 3 in Nishitani. It would have been obvious to a person of ordinary skill in the art to provide Turner's brick recycling apparatus with the stacking step as taught by Nishitani in order to facilitate the transport of the bricks.

8. Claims 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Turner in view of Terbrugge et al. (5,018,504), hereinafter Terbrugge. Regarding claim 18, Turner teaches everything noted above except a movable trailer wherein the trailer houses the brick recycling apparatus. Terbrugge teaches a movable trailer 12, 14, 16 housing a brick recycling apparatus as shown in Fig. 1 in Terbrugge. It would have been obvious to a person of ordinary skill in the art to provide Turner's brick recycling apparatus with the trailer as taught by Terbrugge in order to drive the brick recycling apparatus to a construction site where recovery of the bricks takes place.

Comments

9. It is noted that claims 13 and 14 have not been rejected over prior art. However, in view of the issues under U.S.C. 112, first paragraph, the allowability of claims 13 and 14 cannot be determined at this time.

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Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mally (5,117,717) discloses an on-weight slicing system.

Nilsson, deceased et al. (4,485,861) discloses a method and an apparatus for processing logs having a nonuniform profile.

Seeley (4,557,246) discloses a brick cleaning machine.

Hardin (1,239,480) discloses a brick cleaning machine.

Velle et al. (3,087,483) disclose a brick cleaning machine.

Funk (1,563,081) discloses a brick cleaning machine.

Carter (5,249,491) discloses a sawmill method and apparatus with movable means.

Stephens (4,004,569) discloses a method and apparatus for removing set mortar from recovered building bricks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9302 for After Final communications. Any inquiry of a

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general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

GA/ga

June 20, 2003


Allan N. Shoap
Supervisory Patent Examiner
Group 3700